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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,207	10/19/2001	Sachin G. Deshpande	8371-144	5056
46404	7590	09/10/2007		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER MILLS, DONALD L	
			ART UNIT 2616	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/055,207

**Applicant(s)**

DESHPANDE, SACHIN G.

**Examiner**

Donald L. Mills

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Newly submitted claims 23-26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are directed towards video image enhancement.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-26 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaddha et al. (U.S. Patent No. 5,768,535), hereinafter referred to as Chaddha, in view of Fan et al. (US 6,408,005 B1), hereinafter referred to as Fan.

Referring to claims 1, 13, and 17, Chaddha et al. discloses a method for transmitting data over a transmission channel, comprising:

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*Accepting, at an input of a data transmitter (see Fig. 1), data that has been encoded into a base layer (base layer, col. 3 lines 11-22 and 37-52, col. 5 lines 21-30, col. 7 lines 1-15, col. 9 lines 27-45 and col. 10 lines 25-35) and an enhancement layer (enhancement layer, col. 3 lines 11-22, col. 3 lines 36-52, col. 5 line 1 and 22-29, col. 9 lines 27-43 and col. 10 lines 17-29); transmitting the base layer (base layer, col. 3 lines 11-22 and 37-52, col. 5 lines 21-30, col. 7 lines 1-15, col. 9 lines 27-45 and col. 10 lines 25-35) on the transmission channel.*

*Chaddha does not disclose determining a bandwidth available to the data transmitter associated with transmitting the base layer; transmitting the enhancement layer if there is enough bandwidth available to transmit the enhancement layer responsive to determining the bandwidth associated with transmitting the base layer; and ceasing the transmitting the enhancement layer responsive to accepting, at an input of a data transmitter, data that has been encoded into a second base layer and a second enhancement.*

Essentially, the claimed invention teaches encoding data into multiple traffic classes requiring different levels of Quality of Service (QoS). Chaddha teaches the importance of traffic management with QoS by scaling the frame-rate to the desired transmission rate by dropping frames, thereby, intelligently prioritizing certain frames with higher priority over frames with lower priority (See column 6, lines 46-67.) Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (transmitting the enhancement layer if there is enough bandwidth available to transmit the enhancement layer responsive to determining the bandwidth associated with

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transmitting the base layer) (See column 6, lines 60-65 and column 7, lines 1-3.) The Examiner equates the adjusting of the minimum guaranteed rate to accommodate a new stream, which could effectively terminate the transmission of the excess bandwidth in order to transmit the new stream with resulting residual excess bandwidth (See column 8, lines 24-34.) Thereby, transmitting a “second base layer” and a “second enhancement layer”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

Regarding claim 2 as explained in the rejection statement of claim 1, Chaddha and Fan disclose all of the claim limitations of claim 1 (parent claim).

Chaddha does not disclose *wherein determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer comprises calculating a bandwidth previously used by the data transmitter in previously transmitting layers.*

Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and column 7, lines 1-3.) The scheduler measures the load on the downstream buffers and

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determines whether to distribute unused bandwidth (calculating a bandwidth previously used by the data transmitter in previously transmitting layers) (See column 7, lines 49-52.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

Regarding claims 3, 14, 16, and 18-20 as explained in the rejection statement of claims 1, 13, and 17; Chaddha and Fan disclose all of the claim limitations of claims 1, 13, and 17 (parent claims).

Chaddha does not disclose *wherein determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer comprises measuring data traffic on the transmission channel to determine if enough bandwidth exists to transmit additional layers.*

Chaddha teaches the importance of traffic management with QoS by scaling the frame-rate to the desired transmission rate by dropping frames, thereby, intelligently prioritizing certain frames with higher priority over frames with lower priority (See column 6, lines 46-67.) Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and

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column 7, lines 1-3.) The scheduler measures the load on the downstream buffers and determines whether to distribute unused bandwidth (measuring data traffic on the transmission channel to determine if enough bandwidth exists to transmit additional layers) (See column 7, lines 49-52.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

Regarding claims 4-7 and 15 as explained in the rejection statement of claims 1 and 13, Chaddha and Fan disclose all of the claim limitations of claims 1 and 13 (parent claims).

Chaddha does not disclose *wherein the data transmitter has a pre-set target data rate, and wherein determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer already transmitted comprises determining whether an average bandwidth used by the data transmitter over a last measuring period is below the pre-set target data rate.*

Chaddha teaches the importance of traffic management with QoS by scaling the frame-rate to the desired transmission rate by dropping frames, thereby, intelligently prioritizing certain frames with higher priority over frames with lower priority (See column 6, lines 46-67.) Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a

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share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and column 7, lines 1-3.) The scheduler measures the load on the downstream buffers and determines whether to distribute unused bandwidth (determining an average bandwidth used by the data transmitter over a last measuring period is below the pre-set target data rate) (See column 7, lines 49-52.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

Referring to claims 8, 21, and 22 as explained in the rejection statement of claims 1 and 17; Chaddha and Fan disclose all of the claim limitations of claims 1 and 17 (parent claims). Chaddha further teaches *wherein the data is additionally encoded as a second enhancement layer* (second enhancement layer, col. 3 lines 11-22, col. 3 lines 36-52, col. 5 line 1 and 22-29, col. 9 lines 27-43 and col. 10 lines 17-29.)

Chaddha does not disclose *determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base and enhancement already transmitted by the data transmitter; and transmitting the second enhancement layer available to transmit the second enhancement layer.*



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Chaddha teaches the importance of traffic management with QoS by scaling the frame-rate to the desired transmission rate by dropping frames, thereby, intelligently prioritizing certain frames with higher priority over frames with lower priority (See column 6, lines 46-67.) Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and column 7, lines 1-3.) The scheduler measures the load on the downstream buffers and determines whether to distribute unused bandwidth to each pending output, thereby, forming an “enhancement layer” for each output, which is assigned unused bandwidth (transmitting the second enhancement layer available to transmit the second enhancement layer) (See column 7, lines 49-52 and column 8, lines 10-17.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

Referring to claim 9, the primary reference further teaches *wherein transmitting the base layer on the transmission channel comprises transmitting the base layer* (base layer, col. 3 lines 11-22 and 37-52 col. 5 lines 21-30, col. 7 lines 1-15, col. 9 lines 27-45 and col. 10 lines 25-35) *on a LAN (see Network, Fig. 1) connection between two or more computers.*

Referring to claim 10, the primary reference further teaches *wherein transmitting the base layer on the transmission channel comprises transmitting data from a media server to an image projector* (Fig. 1 ref. sign 180 and respective portions of the spec.).

Referring to claim 11, the primary reference further teaches *wherein transmitting the base layer on the transmission channel comprises transmitting data from a media server to a decoding device* (decoder, Fig. 1 ref. sign 40 and respective portions of the spec.).

Regarding claim 12 as explained in rejection statement of claim 1, Chaddha and Fan teach all of the claim limitations of claim 1 (parent claim).

Chaddha does not disclose *determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer already transmitted comprises calculating at least two average bandwidths used by the data transmitter, each of the average bandwidths calculated over different measuring periods.*

Chaddha teaches the importance of traffic management with QoS by scaling the frame-rate to the desired transmission rate by dropping frames, thereby, intelligently prioritizing certain frames with higher priority over frames with lower priority (See column 6, lines 46-67.) .) Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and column 7, lines 1-3.) The scheduler measures the load on the downstream buffers, calculated as a summing of averages over time, and determines whether to distribute unused bandwidth to each pending output (See column 7, lines 5-15 and 49-52 and column 8, lines 10-17.)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the dynamic scheduling of Fan in the system of Chaddha. One of ordinary skill in the art would have been motivated to do so in order to maintain channel bandwidth during transmission of the base layer and enhancement layer via designated a minimum transmission rate and share of excess bandwidth, thereby, eliminating the need to drop frames on a congested or bandwidth starved link as taught by Chaddha (See column 2, lines 52-55.)

### ***Response to Arguments***

4. Applicant's arguments filed 19 June 2007 have been fully considered but they are not persuasive.

#### **Rejection Under 35 USC 103**

On page 7 of the remarks, regarding claims 1-22, the Applicant argues neither Chaddha nor Fan disclose *ceasing the transmitting the enhancement layer responsive to accepting data that has been encoded into a second base layer and a second enhancement layer*. The Examiner respectfully disagrees. The Examiner equates the adjusting of the minimum guaranteed rate to accommodate a new stream of Fan, which could effectively terminate the transmission of the excess bandwidth in order to transmit the new stream with resulting residual excess bandwidth. Thereby, transmitting a "second base layer" and a "second enhancement layer" (See column 8, lines 24-34.) Therefore, Fan teaches *ceasing the transmitting the enhancement layer responsive to accepting data that has been encoded into a second base layer and a second enhancement layer*. On page 8 of the remarks, the Applicant argues Chaddha teaches away from the claimed invention via *dropping less important bits*. The Examiner respectfully disagrees. Chaddha

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clearly states, "Unfortunately, fixed bandwidth prior art systems cannot make full use of dynamic environments and system variations. The result is slower throughput and more severe contention for a given level of expenditure for system hardware and software. When congestion is present on the network, packets of transmitted information will be randomly dropped, with the result that no useful information may be received by the client," (See column 2, lines 1-9.)

Chaddha suggests that inflexible networks and packet-loss are both undesirable. Thereby, suggesting a system that provides flexibility and avoids packet-loss is highly desirable, such as, that of Fan. In light of this fact, one must consider the prior art reference as a whole.

On page 8 of the remarks, regarding claims 4 and 12, the Applicant argues neither Chaddha nor Fan teach *wherein the data transmitter has a pre-set target data rate, and wherein determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer already transmitted comprises determining whether an average bandwidth used by the data transmitter over a last measuring period is below the pre-set target data rate.* The Examiner respectfully disagrees. Fan teaches a dynamic rate control scheduler, which comprises providing a minimum guaranteed rate (bandwidth available to the data transmitter associated with transmitting the base layer) and a share of the excess bandwidth (enhancement layer). The scheduler first services the minimum rate and then may or may not distribute the unused bandwidth (See column 6, lines 60-65 and column 7, lines 1-3.) The scheduler measures the load on the downstream buffers and determines whether to distribute unused bandwidth (determining an instantaneous average bandwidth used by the data transmitter over a last measuring period is below the pre-set target data rate) (See column 7, lines 49-52.) Therefore, Fan teaches *wherein the data transmitter has a pre-set target data rate, and*

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*wherein determining if there is enough bandwidth available to the data transmitter to transmit the enhancement layer in addition to the base layer already transmitted comprises determining whether an average bandwidth used by the data transmitter over a last measuring period is below the pre-set target data rate.*

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Donald L Mills/

August 31, 2007



CHI PHAM  
SUPERVISORY PATENT EXAMINER

9/4/07